

ASSEMBLY BILL

No. 1918

Introduced by Assembly Member Jones

February 22, 2012

An act to amend Section 2025.520 of the Code of Civil Procedure, relating to discovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 1918, as introduced, Jones. Civil procedure: depositions.

Existing law provides that if a deposition is stenographically recorded, the deposition officer shall send written notice to the deponent and all of the parties who attended the deposition when the original transcript of the deposition testimony is available for reading, correcting, and signing, except as specified. Under existing law, for 30 days following that notice, the deponent may change the form or substance of the answer to a question asked at the deposition, and may approve the transcript or refuse to approve the transcript. The court may shorten this period if good cause is shown.

This bill would authorize a deponent in an unlawful detainer proceeding or certain summary proceedings for obtaining possession of real property to change the form or substance of the answer to a stenographically recorded deposition question for 5 days following notice from the deposition officer that the transcript is ready to be read, corrected, and signed. This bill would also make a conforming change.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2025.520 of the Code of Civil Procedure is amended to read:

2025.520. (a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days, *or, in an unlawful detainer or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, five days*, following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the ~~30-day~~ period *in subdivision (b)* for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

1 (f) If the deponent fails or refuses to approve the transcript
2 within the allotted period, the deposition shall be given the same
3 effect as though it had been approved, subject to any changes
4 timely made by the deponent.

5 (g) Notwithstanding subdivision (f), on a seasonable motion to
6 suppress the deposition, accompanied by a meet and confer
7 declaration under Section 2016.040, the court may determine that
8 the reasons given for the failure or refusal to approve the transcript
9 require rejection of the deposition in whole or in part.

10 (h) The court shall impose a monetary sanction under Chapter
11 7 (commencing with Section 2023.010) against any party, person,
12 or attorney who unsuccessfully makes or opposes a motion to
13 suppress a deposition under this section, unless the court finds that
14 the one subject to the sanction acted with substantial justification
15 or that other circumstances make the imposition of the sanction
16 unjust.